

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

CHARLES AND CAROLYN POPE, ET AL.)	
)	
COMPLAINANTS)	
)	
VS.)	CASE NO. 91-281
)	
NICHOLAS COUNTY WATER DISTRICT)	
)	
DEFENDANT)	

O R D E R

On July 25, 1991, Charles and Carolyn Pope, Mitchell and Karen Hamilton, and Patrick and Tracey Pope ("Complainants"), filed a complaint with the Commission against the Nicholas County Water District ("NCWD"). The Complainants were among a group of 14 homeowners who applied to NCWD in 1990 for an extension of its main to serve their subdivision. The extension was built with the 14 homeowners contributing \$1,000 each to the construction cost. According to NCWD, the total cost of the project was approximately \$20,000.

On September 13, 1991, Commission Staff, Charles and Carolyn Pope, and Charles K. Watkins of NCWD held an informal conference at the Commission's offices to discuss the status of this proceeding. As a result of the conference, the Complainants and NCWD entered into a proposed Settlement Agreement with the understanding that its effectiveness was conditioned upon acceptance by the Commission. The Settlement Agreement is

attached hereto and incorporated herein as Appendix A. The Settlement Agreement expresses the parties' agreement on a mutually satisfactory resolution of all the issues in this case.

The Settlement Agreement provides as follows:

1. Upon the signing of NCWD's standard user's agreement by the Complainants, NCWD will connect the Complainants to its distribution system and provide water service.

2. The Complainants will not be required to contribute any money over and above the \$1,000 each homeowner has already paid for the extension. Refunds to the Complainants for additional tap-ons will be limited to \$650 of the \$1,000 amount, \$350 of which represents tap-on fees.

3. NCWD will install one fire hydrant for the benefit of the Complainants at no cost to the Complainants, the exact location of the fire hydrant to be determined by NCWD. It is understood that the hydrant is for the purpose of flushing lines and is not capable of providing fire protection.

4. NCWD will reimburse the Complainants for additional tap-ons to the extension pursuant to its tariffed extension policy.

The Commission has evaluated and considered the reasonableness of the Settlement Agreement in its entirety. Based upon this review of all evidence of record, the Commission finds the Settlement Agreement to be reasonable, subject to one exception noted below in this Order.

The Settlement Agreement at numerical paragraph 3 provides that NCWD will install one fire hydrant that is for the sole purpose of flushing lines and not for fire protection.

The installation of this fire hydrant, however, does not comply with Standard 24 of the National Fire Protection Association as adopted by 815 KAR 10:020 or the "Recommended Standards for Water Works" of the Great Lakes-Upper Mississippi River Board of Sanitary Engineers as adopted by 401 KAR 6:200. The Recommended Standards for Water Works expressly states that fire hydrants shall not be connected to water mains which are not designed to carry fire-flows.

The Commission in good conscience cannot approve the installation of a fire hydrant which would be contrary to state regulations and accepted engineering standards. Other water system equipment can be used for the stated purpose which the fire hydrant is intended. Furthermore, the installation of a fire hydrant may mislead NCWD customers into believing that the water distribution system is capable of providing adequate and reliable volumes of water for fire protection purposes.

The Commission finds, that as a matter of regulatory practice, it would be unreasonable to authorize NCWD to install the fire hydrant unless it is capable of providing fire protection as stipulated in the Settlement Agreement.

However, the Commission does not intend to prohibit the installation of a fire hydrant where adequate and reliable volumes of water for fire protection can be obtained. In those instances where a professional engineer with a Kentucky registration can

certify that adequate and reliable fire flows can be obtained in conformance with good standard engineering practice, the installation of an appropriate fire hydrant would be allowed.

IT IS THEREFORE ORDERED that:

1. The Commission will approve the Settlement Agreement in its entirety upon the parties notifying the Commission within 30 days of the date of this Order in writing that either:

(a) NCWD will install, at no cost to Complainants, one fire hydrant that is certified in writing by a professional engineer with a Kentucky registration that adequate and reliable fire flows can be obtained in conformance with good standard engineering practice.

(b) NCWD will install, at no cost to Complainants, some type of flushing device, but not a fire hydrant.

2. If the parties cannot agree to the terms in the above paragraph, the Settlement Agreement shall be denied and the terms of the Settlement Agreement shall not be deemed binding upon the parties.

Done at Frankfort, Kentucky, this 6th day of December, 1991.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman

ATTEST:


Executive Director

Commissioner

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 91-281 DATED 12/06/91

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COMPLAINANT)	
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VS.)	CASE NO. 91-281
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NICHOLAS COUNTY WATER DISTRICT)	
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DEFENDANT)	

SETTLEMENT AGREEMENT

On July 25, 1991, Charles and Carolyn Pope, Mitchell and Karen Hamilton, and Patrick and Tracey Pope ("Complainants"), filed a Complaint with the Commission against the Nicholas County Water District ("NCWD"). The Complainants were among a group of 14 homeowners who applied to NCWD in 1990 for an extension of its main to serve their subdivision. The extension was built, with the 14 homeowners contributing \$1,000 each to the construction costs. According to NCWD, the total cost of the project was approximately \$20,000.

The Complaint filed herein alleges that, although the extension has been built, NCWD has refused to connect the six Complainants to the extension and to provide water service unless the Complainants sign an agreement which Complainants allege differs from their original oral agreement with NCWD. Specifically, under the written agreement any applicant desiring the installation of fire hydrants must pay for the installation of the hydrant. Complainants allege that the original agreement,

which was never reduced to writing, called for this cost to be included in the \$1,000 paid by each applicant toward the construction costs. The Complainants also allege that the written agreement provides for a method of reimbursement for additional tap-ons which is different than the method agreed upon previously.

On August 21, 1991, NCWD filed its response to the Complainants' allegations. NCWD stated that the Complainants have been denied water only because they have refused to sign a water user's agreement. NCWD disputed that the parties originally agreed that NCWD would include the fire hydrants in the cost of the project, stating that, from the outset, the Complainants were to equally share the cost of one fire hydrant. NCWD stated that it would abide by its original representation that the 14 applicants for service would not be charged more than a total of \$15,000 for the project. ..

On September 13, 1991, Commission Staff, Charles and Carolyn Pope, and Charles K. Watkins of NCWD held an informal conference at the Commission's offices to discuss the status of this proceeding. As a result of that conference, the Complainants and NCWD have entered into this proposed Settlement Agreement with the understanding that its effectiveness is conditioned upon acceptance by the Commission. .

NOW, THEREFORE, the signatories agree that:

1. Upon the signing of NCWD's standard user's agreement by the Complainants, NCWD will connect the Complainants to its distribution system and provide water service.

2. The Complainants will not be required to contribute any money over and above the \$1,000 each homeowner has already paid for the extension. Refunds to the Complainants for additional tap-ons will be limited to \$650 of the \$1,000 amount, \$350 of which represents tap-on fees.

3. NCWD will install one fire hydrant for the benefit of the Complainants at no cost to the Complainants, the exact location of the fire hydrant to be determined by NCWD. It is understood that the hydrant is for the purpose of flushing lines and is not capable of providing fire protection.

4. NCWD will reimburse the Complainants for additional tap-ons to the extension pursuant to its tariffed extension policy.

5. This Settlement Agreement constitutes a final adjudication of the allegations raised in the Complainants' complaint.

AGREED TO:

Charles Pope
Charles Pope, Complainant

9-27-91
(date)

Carolyn Pope
Carolyn Pope, Complainant

9-27-91
(date)

Mitchell Hamilton
Mitchell Hamilton, Complainant

9-27-91
(date)

Karen Hamilton
Karen Hamilton, Complainant

9-27-91
(date)

Patrick Pope, Complainant

(date)

Tracey Pope, Complainant

(date)

Charles K. Watkins
Charles K. Watkins, Chairman
Nicholas County Water District

10-01-91
(date)